

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No.10683 of 2016

ORDER:

The present application is filed under Section 482 Cr.P.C., seeking modification of the conditions imposed in the bail order dated 03.06.2016 in CrI.M.P.No.1521 of 2016 in Cr.No.310 of 2013 of P.S., WPS., CCS, Hyderabad.

2. A perusal of the record shows that the petitioner is A-1 in Cr.No.310 of 2013 registered for an offence punishable under Section 494 IPC and it was at the stage of investigation. The informant in the above crime earlier filed a complaint against the petitioner herein before the Station House Officer, Begumpet P.S., for the offence punishable under Section 498-A IPC on 08.09.2009 and in which a charge-sheet came to be filed against this petitioner vide C.C. No.568 of 2010 on the file of the XIII Additional Chief Metropolitan Magistrate, Nampally, Hyderabad. In the above crime, the petitioner was granted bail by the III Additional Metropolitan Sessions Judge at Hyderabad on 03.06.2016 vide CrI.M.P.No.1521 of 2016 on a condition that the petitioner shall execute a bond for Rs.10,000/- with two sureties for likesum each to the satisfaction of the Magistrate concerned. The petitioner was further directed not to leave India till the completion of trial before the lower court and he was also directed to surrender his passport before the same Magistrate.

3. It is stated that the petitioner herein has complied with the condition of depositing the passport. Now, the present application is filed seeking modification of the said condition.

4. Learned counsel for the petitioner mainly submits that the petitioner, who is a person of Indian origin left to the United States of America in the year 1985 for further studies and thereafter got employed

in U.S.A. He applied for citizenship of that country in the year 1992 and is now holding an American passport. It is said that the petitioner is having multiple entry tourist visa to India and on coming to know about the crime being registered against him, he himself surrendered before the Court and obtained bail nearly a month later. It is his case that after filing of charge-sheet in the year 2009 he visited India thrice and is not aware about the criminal proceedings pending against him in this country. He submits that he is a professional owning a proprietary concern and is in the business of offering Appraisal services to National Banks in the U.S.A. It is his case that as he has urgent professional and financial commitments to honour in U.S.A., he may be permitted to travel to U.S.A. The same is opposed by the informant, who got impleaded herself as unofficial respondent vide CrI.P.M.P.No.11431 of 2016.

5. The averments in the counter filed by the unofficial respondent shows the nature of the harassment alleged to have been meted out to her during her stay in U.S.A., and also an apprehension that if the petitioner is permitted to leave India, it would be difficult to secure him again.

6. Sri T.Niranjan Reddy, learned senior counsel appearing for the petitioner would submit that since the identity of the petitioner is not in dispute and as the petitioner is not going to dispute the cross-examination done in his absence by his counsel and also the statement of the witnesses recorded in chief by trial court in his absence, no prejudice would be caused even if he is not present in the Court during the course of trial. Further, he submits that the petitioner would be permitted to leave India after his examination and with an undertaking that he will appear before the court at the time of his 313 Cr.P.C., examination and thereafter till the pronouncement of the judgment.

7. Learned counsel appearing for the unofficial respondent did not

seriously oppose the said proposal made by the learned Senior Counsel, but however said that suitable conditions may be imposed securing his presence after completion of trial and till the judgment is delivered.

8. The counter affidavit of the unofficial respondent does not anywhere refer to the denial of employment of the petitioner in U.S.A., and also the inconvenience caused to him by staying in India for a long time. It is also not in dispute that the petitioner has acquired the citizenship of USA in the year 1992 itself. The learned Senior Counsel appearing for the petitioner undertakes that the petitioner is willing to abide by any condition to be imposed by the Court.

9. In view of the undertaking given to that he will not dispute the contents of the chief-affidavit, contents of the cross-examination done by his counsel in his absence, the identity of the witnesses examined by the prosecution and also his own identity in the case, his presence may be dispensed with after his examination before framing of charge, till 313 Cr.p.c. examination and the passport of the petitioner shall be returned on further condition that;

i) One of the parent of the petitioner shall deposit his/her passport in the trial Court;

ii) The petitioner shall also give an undertaking that he will leave the Country after answering the charge and appear again before the Court at the stage of 313 Cr.P.C., examination. Till such time the presence of the petitioner is dispensed with before the trial court;

iii) The petitioner shall deposit cash of Rs.12,50,000/- (Rupees twelve lakhs fifty thousand only) in the Court as a Security and if the petitioner fails to appear before the Court as directed, the said amount shall be forfeited in favour of the informant; and

iv) The petitioner shall not complain that he was not aware about the date fixed for 313 Cr.P.C., examination;

The trial court shall take up the matter on day to day basis and dispose of the case as early as possible preferably within a period of 6 (six) months from the date of receipt of a copy of this order.

10. With the above modification, the Criminal Petition is disposed of.

JUSTICE C. PRAVEEN KUMAR

Dt:12.08.2016
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